

SCOTTSDALE

# CITY COUNCIL MEETING



## \*\*\*AMENDED\*\*\* MEETING NOTICE AND AGENDA

[\*\*\*REVISED WORDING FOR ITEM NO. 2; ADDED CONSENT ITEMS NO. 12A AND 12B]

### COUNCIL

Mary Manross, Mayor

Betty Drake

Wayne Ecton

W.J. "Jim" Lane

Robert W. Littlefield

Ron McCullagh

Tony Nelssen

Tuesday, September 26, 2006

4:00 P.M.

CITY COUNCIL SPECIAL MEETING

**MARKED AGENDA**

Call to Order – City Hall Kiva Forum, 3939 N. Drinkwater Boulevard – **4:04 PM**

Roll Call – **ALL PRESENT**

### Boards, Commissions and Task Forces

**How the Board and Commission Interview and Appointment Process Works:** The Council will spend a few minutes interviewing each board and commission nominee. At the conclusion of the interviews, the Council will make the appointments. Once the appointments have been made, the Council will take a short recess and reconvene at 5:00 p.m. to consider the remainder of the items on tonight's agenda.

Interview of citizen nominees and appointments to City boards and commissions. Nominations were made at the September 19, 2006 City Council Meeting.

**Board of Adjustment.** *Nominees:* Michal Joyner, Geoffrey Kercksmar, Terry Kuhstoss, Monica Lindstrom  
*Council to fill one vacancy.* – **GEOFFREY KERCKSMAR**

**Building Advisory Board of Appeals.** *Nominees:* John Balsis, Marty Goodman, Mark Johnson, and Gretchen Palmer – **JOHN BALSIS, MARK JOHNSON, GRETCHEN PALMER**  
*Council to fill three vacancies.*

**Historic Preservation Commission.** *Nominees:* Yvonne Boutell, Shirley Cordasco, George Hartz, David Schmidt, and Robert Viergutz – **GEORGE HARTZ, DAVID SCHMIDT, ROBERT VIERGUTZ**  
*Council to fill three vacancies. Two of these appointments will be effective October 14, 2006.*

**Human Services Commission.** *Nominees:* Carol Erickson, Donna Reid, Katherine Weaver, and Debra Welborn – **DONNA REID, KATHERINE WEAVER**  
*Council to fill two vacancies.*

**Parks and Recreation Commission.** *Nominees:* George Adams, James Duchene, George Fowler, Stan Koczka, Donn Loper, and Jack Sisley – **GEORGE ADAMS, JAMES DUCHENE, DONN LOPER**  
*Council to fill three vacancies. One of these appointments will be effective October 14, 2006.*

**Tourism Development Commission.** *Nominees:* Connie Cornelius, E. Thomas Morrow, Mike Surguine, Janice Wight – **E. THOMAS MORROW**  
*Council to fill one vacancy.*

**5:00 P.M.**

# **CITY COUNCIL REGULAR MEETING**

**Call to Order** – City Hall Kiva Forum, 3939 N. Drinkwater Boulevard – **5:42 PM**

**Roll Call** – **ALL PRESENT**

**Pledge of Allegiance** – **BOY SCOUT TROOP #30, CUB SCOUT PACK #606**

**Invocation** – **PASTOR RAY BARTON, SCOTTSDALE BIBLE CHURCH**

## **Presentations/Information Updates**

**Approval of Minutes**      **- MOTION TO APPROVE –  
OK – 7/0**

SPECIAL MEETINGS

REGULAR MEETINGS

WORK STUDY SESSIONS

EXECUTIVE SESSIONS

[September 12, 2006](#)

[September 12, 2006](#)

**Public Comment** – SYLVIA WERMES ASKED THE COUNCIL TO INCLUDE FUNDS IN THE FY2007/08 BUDGET FOR TENNIS COURTS TO BE COMPLETED IN 2007; NANCY HARRIS STATED THAT A TENNIS FACILITY NEEDS TO BE BUILT AS SOON AS POSSIBLE; LARRY FUNK SAID TENNIS IS THE ONLY SPORT IN THE CITY TO EXPERIENCE A GROWTH IN THE PARTICIPATION RATE AND A FACILITY NEEDS TO BE BUILT AT DC RANCH DUE TO GROWTH IN THE AREA; BARBARA ADDIEGO TEACHES TENNIS AND ASKED TO HAVE MONIES MOVED TO THE 2007/08 BUDGET TO BUILD ADDITIONAL TENNIS FACILITIES; DAN BASINGER REMINDED THE COUNCIL AND RESIDENTS ABOUT THE GREEN BUILDING EXPO SCHEDULED FOR OCTOBER 6 AND 7.

Citizens may complete one speaker/citizen comment card per night and submit it to the City Clerk before or during this evening's meeting. Please check the box that refers to "Public Comment." This "Public Comment" time is reserved for citizen comments regarding non-agendized items. No official Council action can be taken on these items.

## **CONSENT AGENDA      ITEMS 1-12B**

**How the Consent Agenda Works:** The Council may take one vote to act on all items on the Consent Agenda, or may remove items for further discussion. Every interested citizen will have one opportunity to speak on any or all Consent Agenda items. If you wish to speak on these items, please complete a Comment Card for each topic you wish to address. **You will be given at least three minutes to speak on all the Consent Agenda items you wish to address. Additional time for multiple agenda items will be at the Mayor's discretion.**

After all speakers have finished, the City Council will decide which items to remove for additional discussion and/or presentation from staff. Items not removed from the Consent Agenda will be considered in one motion. Items removed for clarification or discussion by the Council will be acted on as appropriate.

### **1.      [Environmentally Sensitive Lands Text Amendment](#) – APPROVED ON CONSENT**

#### **Requests:**

1. Approve a Text Amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455), to amend Article VI. Supplementary District., Section. 6.1083. Amended Development Standards and Section. 6.1090. ESL Submittal Requirements. The purpose of this text amendment is to amend the exemption process related to the 15-foot setback for walls on individual residential lots and to create a process to amend Development Standards.
2. Adopt Ordinance No. 3696 affirming the Text Amendment.

**Related Policies, References:** 2-TA-2006; Environmentally Sensitive Lands Ordinance

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

# CONSENT AGENDA

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## \*\*\*2. Aircraft Text Amendment – APPROVED ON CONSENT

### Requests:

1. Approve a Text Amendment to the City of Scottsdale Zoning Ordinance (Ord. No. 455) adding language to the Use Regulations prohibiting aircraft take-offs and landings as an accessory use in residential districts in each of the following sections: Article V. District Regulations.; Section. 5.010. R1-190 Single-family Residential District.; Section 5.100. R1-43 Single-family Residential District.; Section 5.700. R-3 Medium Density Residential District.; Section. 5.800. R-4 Townhouse Residential District.; Section. 5.900. R-4R Resort/Townhouse Residential District. Section 5.1000. R-5 Multiple-family Residential District.; and Section 5.200. M-H Manufactured Home District.
2. Adopt Resolution No. 7023 declaring the document entitled “Amendments to Use Regulations Prohibiting Aircraft Takeoffs and Landings as an Accessory Use in Residential Districts” to be a public record.
3. Adopt Ordinance No. 3697 affirming the Text Amendment.

**Related Policies, References:** 4-TA-2006; 71-Z-82

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

## 3. Turquoise Hardship Exemption – APPROVED ON CONSENT

### Requests:

1. Approve an Environmentally Sensitive Lands Ordinance (ESLO) hardship exemption from 15-foot sideyard wall setback from property line on a 1.25± acre parcel located at 12922 E. Turquoise Avenue.
2. Adopt Resolution No. 7006 affirming the Hardship Exemption.

**Location:** 12922 E. Turquoise Avenue

**Reference:** 2-HE-2006

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

## 4. DC Ranch Market Street Final Plat – APPROVED ON CONSENT

**Request:** Approve the final plat for a commercial subdivision on a 30-acre parcel.

**Location:** 20555 N. Pima Road

**Reference:** 9-PP-2006

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

## 5. Avis Rent-A-Car Conditional Use Permit – APPROVED ON CONSENT

### Requests:

1. Approve a conditional use permit for automobile rental or leasing on a 38,824± square foot parcel located at 14880 N. Northsight Boulevard with Highway Commercial District (C-3) zoning.
2. Adopt Resolution No. 7005 affirming the conditional use permit.

**Location:** 14880 N. Northsight Boulevard, Suite 105

**Reference:** 14-UP-2006

**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

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6. **Hydrogeological and Design Services for New Well Site #140 and Two Aquifer Storage Recovery Monitor Wells – APPROVED ON CONSENT**  
**Request:** Adopt Resolution No. 7012 authorizing Engineering Service Contract No. 2006-018-COS with Valentine Environmental Engineers, L.L.C., in the amount of \$566,597 for design of a new Aquifer Storage and Recovery (ASR) groundwater well and two ASR monitor wells.  
**Related Policies, References:** On June 17, 2002, City Council approved Engineering Services Contract No. 2002-078-COS with Clear Creek Associates in the amount of \$126,486 to investigate and document subsurface conditions at planned future City Well Site No. 140, south of Hayden Road and Beardsley. This contract was successfully completed in December 2002.  
**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov); Dave Mansfield, Water Resources General Manager, 480-312-5681, [dmansfield@scottsdaleaz.gov](mailto:dmansfield@scottsdaleaz.gov)
7. **Engineering Services Contract Amendment for Phase 1 Scottsdale Road Streetscape Improvements – APPROVED ON CONSENT**  
**Request:** Adopt Resolution No. 7004 authorizing Engineering Service Contract amendment 2005-020-COS-A1 with OTAK, Inc., for \$399,686 to provide construction documents for Scottsdale Road Streetscape Improvements from Roosevelt Street to Earll Drive.  
**Related Policies, References:** Council approved Engineering Services Contract No. 2005-020-COS with OTAK, Inc., for the development of Scottsdale Road Streetscape master plan, design guidelines and initial conceptual design work on March 8, 2005.  
**Staff Contact(s):** Mary O'Connor, Transportation General Manager, 480-312-2334, [moconnor@scottsdaleaz.gov](mailto:moconnor@scottsdaleaz.gov)
8. **Engineering Services Contract for the Thomas Road Streetscape Project – APPROVED ON CONSENT**  
**Request:** Adopt Resolution No. 6990 authorizing Engineering Services Contract No. 2006-149-COS with e group, Inc., for an amount not to exceed \$371,285 for the preparation of preliminary designs for Thomas Road from 64<sup>th</sup> Street to Pima Road.  
**Related Policies, References:** This action directly supports the City Council Transportation Goal: strengthen the transportation system for the safe, efficient and affordable movement of people and goods; and City Council Neighborhood Goal: enhance and protect a diverse, family-oriented community where neighborhoods are safe, protected from adverse impacts, well maintained and actively revitalized.  
**Staff Contact(s):** Mary O'Connor, Transportation General Manager, 480-312-2334, [moconnor@scottsdaleaz.gov](mailto:moconnor@scottsdaleaz.gov)
9. **Settlement of Eleven Pending Preserve Condemnation Cases – APPROVED ON CONSENT**  
**Request:** Adopt Resolution No. 7002 authorizing the City Attorney to settle eleven pending Preserve condemnation cases, all of which are eminent domain actions brought to acquire real property for the McDowell Sonoran Preserve.  
**Related Policies, References:** Resolution Nos. 5223, 5874 and 6072 authorized the condemnation of these properties for the McDowell Sonoran Preserve.  
**Staff Contact(s):** Robert Cafarella, Director of Preservation, 480-312-2577, [rcafarella@scottsdaleaz.gov](mailto:rcafarella@scottsdaleaz.gov)

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10. **Amend the Scottsdale Revised Code Relating to Secondhand Dealers, Pawnbrokers and Auction Houses – APPROVED ON CONSENT**  
**Request:** Approve Ordinance No. 3691 amending Section 16-338.1 of the Scottsdale Revised Code, relating to Secondhand Dealers, Pawnbrokers and Auction Houses, to correct an erroneous cross-reference.  
**Related Policies, References:** Ordinance Nos. 3549, 3657  
**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-7794, [dobberson@scottsdaleaz.gov](mailto:dobberson@scottsdaleaz.gov); Alan G. Rodbell, Chief of Police, 480-312-1900, [arodbell@scottsdaleaz.gov](mailto:arodbell@scottsdaleaz.gov)
11. **Independent Ethics Reviewers and Officers Contracts – APPROVED ON CONSENT**  
**Request:** Adopt Resolution No. 7014 authorizing the Mayor to execute Contract Nos. 2006-162-COS, 2006-163-COS, 2006-164-COS, 2006-165-COS, 2006-166-COS, 2006-167-COS, 2006-168-COS, 2006-169-COS, 2006-170-COS, 2006-171-COS and 2006-172-COS to allow eleven retired judges to serve as independent ethics reviewers and/or the independent ethics officer, as required by Scottsdale Revised Code Sec. 2-57.  
**Related Policies, References:**
  - Resolution No. 6879, Ethics Program for City Officials
  - Ordinance No 3675, Code of Ethical Behavior for City Officers**Staff Contact(s):** Deborah Robberson, City Attorney, 480-312-2405, [dobberson@scottsdaleaz.gov](mailto:dobberson@scottsdaleaz.gov)
12. **September 12, 2006 Special Election Canvass – APPROVED ON CONSENT**  
**Request:** Adopt Resolution No. 7013 as the official canvass of the Special Election held Tuesday, September 12, 2006.  
**Related Policies, References:**
  - Arizona Revised Statutes (A.R.S.) § 16-642 requires the governing body to canvass election results.
  - A.R.S. § 16-646 sets out the form and content of the official canvass.**Staff Contact(s):** Carolyn Jagger, City Clerk, 480-312-2411, [cjagger@scottsdaleaz.gov](mailto:cjagger@scottsdaleaz.gov)
- \*\*\*12A. **Construction Bid Award for McDowell Road Streetscape Improvements – REMOVED FROM AGENDA**  
**Request:** Remove this item from the agenda.  
**Staff Contact(s):** Roger Klingler, Assistant City Manager, 480-312-5830, [rklingler@scottsdaleaz.gov](mailto:rklingler@scottsdaleaz.gov)
- \*\*\*12B. **Kim Courtney's Swim School (Continued) – MOTION TO CONTINUE TO OCTOBER 17, 2006 – OK – 7/0**  
**Request:** Continue to a date uncertain.  
**Staff Contact(s):** Frank Gray, Planning and Development Services General Manager, 480-312-2890, [fgray@scottsdaleaz.gov](mailto:fgray@scottsdaleaz.gov); Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov)

**Mayor and Council Item Begin on the Following Page**

**Mayor and Council Items**

- 13. GLO Easements – MOTION TO INSTRUCT STAFF THAT FUTURE FEDERAL LAND OFFICE PATENT EASEMENTS SHOULD BE CONDITIONED UPON THE PARCEL OWNER AGREEING TO RELEASE THE CITY FROM RESPONSIBILITY OR CLAIMS RELATED TO THE ABANDONMENT AND THAT ALL FUTURE GOVERNMENT LAND OFFICE ABANDONMENT RESOLUTIONS BE WRITTEN TO EFFECTUATE SUCH A RELEASE IN A FORM THAT IS SUBSTANTIALLY SIMILAR TO THE NEW PARAGRAPH NUMBER 3.2 THAT WAS PRESENTED THIS EVENING (\*SEE BELOW). FURTHER THAT STAFF IS AUTHORIZED TO MAKE MINOR CHANGES TO IMPROVE THE LANGUAGE OR ADOPT IT FOR USE IN A PARTICULAR CASE, BUT THE FINAL LANGUAGE MUST BE CONSISTENT WITH THE DECISIONS MADE HERE TONIGHT. – OK – 7/0**

*\*The owner of the land across which the GLO easement passes, the owner, acknowledges that the City is releasing only its interest in the GLO easements and that other persons or entities may claim that this resolution does not completely distinguish the GLO easement. Owner agrees to release the City from any and all damages or harm relating to such claims. Owner and its lenders, tenants, and other interest holders, shall execute and acknowledge the agreement and release by GLO abandonment parcel owner attached hereto as Exhibit B, which shall when signed and acknowledged, be attached to and recorded to this resolution.*

Request from Councilmember Nelssen for consideration, discussion, and possible direction to staff regarding requiring applicants for abandonment of GLO easements to release the City from responsibility for claims related to the abandonment.

**Public Comment – NONE**

Citizens may complete one speaker/citizen comment card per night and submit it to the City Clerk before or during this evening's meeting. Please check the box that refers to "Public Comment." This "Public Comment" time is reserved for citizen comments regarding non-agendized items. No official Council action can be taken on these items.

**City Manager's Report – NONE****Adjournment – 6:37 PM**

EXHIBIT B

**AGREEMENT AND RELEASE BY GLO ABANDONMENT PARCEL OWNER [SAMPLE]**

As an inducement to the City of Scottsdale to approve this abandonment resolution No. \_\_\_\_\_, the undersigned owner of the land across which the GLO easement passes ("Owner") warrants and represents to be the owner of the fee title to the land upon which the right-of-way easement is located. Owner also makes certain acknowledgements, warranties and agreements (collectively, the "Assurances") in favor of City as follows:

1. Owner acknowledges that:
  - a. Some or all of the right-of-way covered by this resolution is an easement created by a federal GLO patent reservation.
  - b. The City of Scottsdale's intent by this resolution is to abandon only the City of Scottsdale's interests in the land.
  - c. Other persons or entities may claim that the resolution does not completely extinguish the GLO easement(s) or may claim rights for themselves or others to use the land for various purposes and/or to prevent any improvement or use of the land that is affected by the resolution.
2. Owner agrees that:
  - a. Owner shall proceed entirely at Owner's own risk as to any damages, delays, loss, difficulties, injury or other harm of any nature that Owner or any third party may now or hereafter suffer due to the existence or abandonment of the easement or due to this resolution or the issues recited above. Owner completely, unconditionally and irrevocably releases the City of Scottsdale from any and all legal or other responsibility for any such harm.
  - b. All of the Assurances run with the land in favor of the City of Scottsdale upon the right-of-way covered by this resolution and upon Owner's land adjoining such right-of-way.
  - c. The City of Scottsdale would not have approved this resolution without the Assurances.
3. Owner makes the Assurances on behalf of Owner and Owner's heirs, successors and assigns, and the Assurances are binding upon all of them.

\_\_\_\_\_  
Owner

STATE OF ARIZONA    )  
                                  ) ss.  
County of Maricopa    )

Subscribed, sworn to and acknowledged before me by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
2006.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_